

August 10, 2004

The Honorable Fabian Nunez, Speaker
California State Assembly
State Capitol, Room 2117
Sacramento, CA 95814

RE: AB 2006 - **Oppose Unless Amended**

Dear Speaker Nunez:

The Resources Agency is *Opposed Unless Amended* to your legislation, AB 2006. As articulated in Governor Schwarzenegger's letter on April 28, 2004, to President Peevey at the Public Utilities Commission, it remains our position that most of the provisions in AB2006 are unnecessary or duplicative.

California must provide for long-term resource adequacy, consistent with the State Energy Action Plan, in a manner that creates stability and predictability in wholesale markets to assure that adequate energy supplies are procured. The potential for significant, costly consequences from poorly made procurement decisions make it crucial that long-term wholesale markets be designed properly.

This legislation will increase regulatory uncertainty and market instability, resulting in the delay of construction and acquisition of critically needed resources. Investor owned utilities (IOU) have recently submitted their long term procurement plans for review and approval to the California Public Utilities Commission (CPUC). In addition, resource adequacy is being addressed in current CPUC proceedings.

Without the requirement for a transparent, competitive procurement process, the bill ties the hands of future Commissions, removes existing ratepayer protections, and shifts the burden of potential cost overruns onto California consumers.

The Administration supports the concept of "customer choice," which allows consumers to choose their energy providers and which was originally proposed as a core/non-core program in all previous versions of AB2006. The core/non-core provisions have now been dropped.

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Specifically, our concerns are that:

- Resource adequacy was addressed in CPUC Decision 04-01-050 on procurement, which stated that the PUC would enforce resource adequacy requirements for Load Serving Entities (LSE).
- Existing law, AB 57 (Wright), provides IOUs with the ability to develop diversified resource portfolios and to enter into long-term contracts without the after-the-fact reasonableness reviews by the CPUC. This long-term resource requirement does not require additional legislation.
- While this bill would restate an IOU's obligation to serve, this obligation already exists in Public Utilities Code Sections 451 et. seq. and thus is unnecessary.

The goal of a transparent, competitive procurement process is to evaluate the full range of options in the wholesale market to obtain the best possible deal for California ratepayers in terms of price, risk, reliability and environmental impact.

In response to the Governor's request to accelerate resource adequacy requirements, the CPUC is now working to establish mechanisms that will allow for customer flexibility while avoiding cross-subsidies and stranded costs.

To the extent there is a desire to provide legislative clarity on the resource adequacy obligations of Load Serving Entities, including their obligation to satisfy the State's renewable portfolio standard, we will provide you with amendments. In addition, we will offer alternative language that would reestablish customer choice through a core/non-core market structure.

I look forward to working with you on this very important issue.

Sincerely,

Mike Chrisman
Secretary for Resources